

## **CHAPTER 2     BLIND VENDORS PROGRAM**

### **200     ISSUANCE OF LICENSES**

- 200.1    Licenses to operate vending facilities within the Blind Vendors Program (also referred to in this chapter as the "Program") shall be issued only to blind persons who meet the following criteria:
- (a) Residency in the District at the time of licensing; and
  - (b) United States citizenship.
- 200.2    Licenses shall be issued only to persons who are certified by the licensing agency as qualified to operate a vending facility.
- 200.3    Primary preference shall be given to blind persons who are jobless and in need of employment.

### **201     TERMINATION OF LICENSES**

- 201.1    Licenses shall be issued for an indefinite period, but shall be subject to suspension or termination if, after affording the vendor an opportunity for a full evidentiary hearing, the licensing agency finds that the vending facility is not being operated in accordance with its rules or regulations, the terms and conditions of the permit, or the terms and conditions of the written agreement with the vendor.
- 201.2    Any license granted to an individual for the operation of a vending facility may be suspended or terminated for any of the following reasons:
- (a) Improvement of vision so that the vendor no longer meets the definition of blindness set forth in §299;
  - (b) Extended illness with medically documented diagnosis of prolonged incapacity of the vendor to operate the vending facility in a manner consistent with the needs of location or other available locations in the Program; or
  - (c) Withdrawal of the vendor from the Program upon his or her written notification to the licensing agency.

## **202 VENDING FACILITY EQUIPMENT AND INITIAL STOCK**

- 202.1 The licensing agency shall be responsible for furnishing each vending facility with adequate suitable equipment and initial stocks of merchandise necessary for the establishment and operation of the facility.
- 202.2 The right and title to, and interest in, the equipment and the stock of each vending facility shall be vested in the nominee for program purposes and subject to the paramount right of the licensing agency to direct and control the use, transfer, and disposition of the vending facilities or stock.
- 202.3 The licensing agency shall retain ownership of the vending facility.

## **203 SETTING ASIDE OF FUNDS**

- 203.1 The Program shall be supported principally through the use of set-aside funds.
- 203.2 The licensing agency shall enter into a servicing agreement with a nominee organization for overall managerial services.
- 203.3 The budget for the nominee organization shall be funded completely by funds set aside from the net proceeds from the operation of vending facilities.
- 203.4 Licensing agency funding shall provide for activities not assignable under a servicing agreement, in addition to the training of prospective vendors and the monitoring of the servicing agreement.
- 203.5 Funds shall be set aside as follows:
  - (a) Thirty-three percent (33%) of the net proceeds of facilities with annual net proceeds of thirty-six thousand dollars (\$36,000), or more; and
  - (b) Twenty-eight percent (28%) of the net proceeds of all facilities with annual net proceeds of less than thirty-six thousand dollars (\$36,000).
- 203.6 Set-aside funds shall be spent only for the following purposes, unless the majority of vendors elects to use unassigned vending income for a retirement plan, paid health insurance, or paid sick leave and vacation:
  - (a) Maintenance and replacement of equipment;
  - (b) Purchase of new equipment;
  - (c) Management services; and
  - (d) Guarantee of a fair minimum return.

**203      SETTING ASIDE OF FUNDS      (Continued)**

203.7      The schedule of set-aside funds shall be the following:

- (a) Twenty-three percent (23%) for maintenance and replacement of equipment;
- (b) Twenty-five percent (25%) for the purchase of new equipment;
- (c) Forty-nine percent (49%) for management services; and
- (d) Three percent (3%) to guarantee a fair minimum return.

203.8      Financial records for the Program shall be prepared and maintained by the nominee organization in accordance with written instructions from the licensing agency.

203.9      Each vendor shall be provided with a monthly profit and loss statement reflecting the business of the individual facility.

203.10     The nominee organization shall maintain records reflecting a full financial picture of the program. Special emphasis shall be placed on accountability and justification for expenditures within the four (4) categories set forth in §203.5.

**204      INCOME FROM VENDING FACILITIES ON FEDERAL PROPERTY**

204.1      Income from vending machines on federal property, which has been disbursed to the licensing agency by a property managing department, agency, or instrumentality of the United States under the vending facility provisions in §1369.32 of Title 45 of the Code of Federal Regulations shall accrue to each blind vendor operating a vending facility on that federal property in an amount not to exceed the average net income of the total number of blind vendors within the District, as determined each fiscal year on the basis of each prior year's operation, except as provided in §204.2.

204.2      Vending machine income shall not accrue to any blind vendor in any amount exceeding the average net income of the total number of blind vendors in the United States.

204.3      No blind vendor shall receive less vending machine income than the individual received during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on income under the ceiling set forth in §204.2.

204.4      No limitation shall be imposed on income from vending machines, combined to create a vending facility, when the facility is maintained, serviced, or operated by a blind vendor.



**204 INCOME FROM VENDING FACILITIES ON FEDERAL PROPERTY (Continued)**

- 204.5 The licensing agency shall retain vending machine income disbursed by a property managing department, agency, or instrumentality of the United States in excess of the amount authorized to accrue to blind vendors.
- 204.6 The Licensing Agency shall disburse vending machine income to blind vendors on at least a quarterly basis.
- 204.7 Vending machine income retained by the licensing agency shall be used for the establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for blind vendors, if it is so determined by a majority vote of licensed vendors, after each has been furnished information on all matters relevant to these purposes.
- 204.8 Any vending machine income not necessary for the purposes outlined in §204.7 shall be used for one (1) or more of the following purposes:
- (a) Maintenance and replacement of equipment;
  - (b) Purchase of new equipment;
  - (c) Management services; and
  - (d) Ensuring a fair minimum return to vendors.
- 204.9 Any assessment charged to blind vendors shall be reduced pro rata in an amount equal to the total of remaining vending machine income.

**205 RESERVED**

## **206 OPERATING AGREEMENTS**

- 206.1 The licensing agency shall develop, with the active participation of the Committee of Blind Vendors, an operating agreement covering the basic terms and conditions which shall be entered into between the licensing agency and each vendor.
- 206.2 The agreement shall include the following provisions:
- (a) The duties of the vendor and the performance of those duties in accordance with standards prescribed by the licensing agency, applicable health laws and regulations, and with the terms of the permit granted by or the contract entered into with the federal or District governments or other agencies or organizations in control of the site of the vending facility;
  - (b) The responsibilities of the licensing agency to provide management services to the vendor, including assistance, supervision, and the ways in which those responsibilities shall be administered;
  - (c) A statement that the vendor shall receive the net proceeds from the vending facility which he or she operates, less the funds which must be set aside;
  - (d) The responsibility of the vendor to furnish any reports that the licensing agency may require;
  - (e) The right of the vendor to terminate the operating agreement at any time;
  - (f) The termination of the operating agreement upon the cancellation of the permit or contract; and
  - (g) The termination or revocation of the operating agreement upon the failure of the vendor to operate the vending facility in accordance with the operating agreement or applicable federal or District laws and regulations.

## **207 PROMOTION AND TRANSFER OF VENDORS**

- 207.1 The licensing agency, with the active participation of the Committee of Blind Vendors, shall establish a promotion and transfer system for vendors that shall be uniformly applied to all vacancies which develop or occur in the Program.
- 207.2 Eligibility for promotion and transfer within the Program shall be governed by a point system which determines the ranking of all licensed vendors.

**207      PROMOTION AND TRANSFER OF VENDORS      (Continued)**

- 207.3      Rating points, as described in this section shall be awarded on the basis of seniority and performance.
- 207.4      When a vending facility vacancy occurs, the vendor with the highest number of rating points shall be offered the opportunity to transfer to the vacant facility. If that vendor declines, the transfer shall be offered to the next highest ranked vendor. This procedure shall continue until the vacancy is filled.
- 207.5      All vendors shall be guaranteed the right to decline a transfer without penalty and shall be allowed up to forty-eight (48) hours in which to accept or reject a transfer.
- 207.6      Vendors may be denied the opportunity to transfer, on a temporary basis, if documentation developed with the active participation of the Blind Vendors Committee reflects serious managerial problems which prevent a vendor from operating in an acceptable manner. The right to transfer shall be reinstated when the vendor demonstrates acceptable overall managerial performance.
- 207.7      Seniority shall be determined by the length of time during which persons have been licensed as vendors in the Program in the District.
- 207.8      Seniority shall begin to accrue upon the date of issuance of the original license to a vendor and continue until resignation, death, or dismissal from the Program.
- 207.9      If a former licensee returns to the Program, the seniority points earned during the prior tenure shall be reinstated, unless the Promotion and Transfer Committee votes unanimously to deny the reinstatement.
- 207.10      A vendor shall accumulate one (1) rating point for each six (6) months of seniority until he or she has received forty (40) points. After accumulating forty (40) points, a vendor shall then accumulate one (1) point for each twelve (12) months of seniority.
- 207.11      A semi-annual evaluation of performance shall be made according to the following performance criteria and rating points system:
- |                                        |               |
|----------------------------------------|---------------|
| (a) Supervision of personnel           | 5 points;     |
| (b) Knowledge of business              | 5 points;     |
| (c) Ability to serve                   | 5 points;     |
| (d) Care and utilization of equipment  | 5 points;     |
| (e) Recordkeeping                      | 5 points;     |
| (f) Sanitation                         | 5 points;     |
| (g) Customer relations                 | 5 points; and |
| (h) Adherence to rules and regulations | 5 points.     |

Maximum: 40 points



**207      PROMOTION AND TRANSFER OF VENDORS      (Continued)**

- 207.12 Performance ratings shall be judged on the manner in which vendors apply themselves to all the various phases of vending facility operation and the degree to which they meet the requirements and standards of the Program.
- 207.13 Performance shall be determined by a semi-annual evaluation of all vendors conducted by the Promotion and Transfer Committee, based upon reports of supervisory personnel of the nominee organization and other pertinent reports including documented complaints.

**208      PROMOTION AND TRANSFER COMMITTEE**

- 208.1 A Promotion and Transfer Committee shall act on behalf of the licensing agency for the purpose of applying the provisions of §207.
- 208.2 The Committee shall be composed of a representative selected by each of the following:
- (a) The Blind Vendors Committee;
  - (b) The nominee organizations; and
  - (c) The licensing agency.
- 208.3 The Committee shall meet at a mutually agreeable time, at least semi-annually, and shall evaluate pertinent data in order to determine the number of performance rating points to be allocated to each vendor, in accordance with §§207.11 through 207.13.
- 208.4 The total number of points awarded for performance, combined with the points accumulated for seniority, shall fix the vendor's position in order of eligibility for promotion and transfer.
- 208.5 The Committee shall also meet as often as is necessary to ensure full consideration of every proposed promotion or transfer. Full consideration may include a re-evaluation of the work demands of a given vending facility.
- 208.6 Unless otherwise specified in this chapter, the decisions of the Promotion and Transfer Committee shall be decided by majority vote.
- 208.7 The decisions of the Committee in regard to ratings shall be considered final.

## **209 RELOCATION OF VENDORS**

- 209.1 If fifty percent (50%) or more of the government employees are moved from the premises in which a vending facility is located to new premises in which a vending facility is to be established, the vendor of the facility in the old premises shall have the privilege of transferring to the new location only if the relocated employees constitute fifty percent (50%) or more of the government personnel in the new premises.
- 209.2 If the provisions of §209.1 do not apply, the vending facility vacancy in a new premises shall be filled in accordance with the usual promotion and transfer system.

## **210 TRAINING PROGRAM**

- 210.1 The Licensing Agency, with the active participation of the Blind Vendors Committee, shall establish training and retraining programs.
- 210.2 The Vocational Rehabilitation Services Administration within the Department shall provide prospective blind vendors with counseling, guidance, prevocational training, and rehabilitation services in preparation for training in vending facility operations.
- 210.3 Following the acceptance of prospective blind vendors by the Department, training in vending facility management shall be carried out in a training center maintained by the Licensing Agency.

## **211 BLIND VENDORS COMMITTEE**

- 211.1 The Blind Vendors Committee, as established under Mayor's Order 77-131, dated August 8, 1977, as amended by Mayor's Order 78-22, dated January 22, 1978, shall have the following functions:
- (a) Actively participate with the Licensing Agency in major administrative decisions and policy and program development decisions affecting the overall administration of the Program;
  - (b) Receive and transmit to the Department grievances at the request of blind vendors and serve as advocates for vendors in connection with grievances;
  - (c) Actively participate with the Department in the development and administration of a program system for the transfer and promotion of blind vendors;
  - (d) Actively participate with the Department in the development of training and retraining programs for blind vendors; and
  - (e) Sponsor, with the assistance of the Department, meetings and instructional conferences for blind vendors within the Program.



**212 BLIND VENDORS COMMITTEE: MEMBERS AND ELECTIONS**

- 212.1 The Department shall provide for the biennial election of a Blind Vendors Committee, which shall be fully representative of all blind vendors in the District program.
- 212.2 There shall be no test of eligibility for voting except licensing in the Program.
- 212.3 The election shall be conducted by mail. The return ballots shall be collected and held by a nongovernmental, nonprofit agency which shall bring the unopened ballots to an appointed place at a designated time, where they shall be opened and tabulated in the presence of all blind licensees who wish to attend.
- 212.4 The Committee shall be composed of seven (7) members.
- 212.5 Nominations for the Committee shall be conducted by mail. In order for a name to be placed on the ballot, the following conditions shall be met:
  - (a) The vendor shall be nominated by at least ten percent (10%) of those eligible to vote in the election; and
  - (b) The nominated vendor shall have agreed to serve, if elected.
- 212.6 Committee members shall serve for a term of two (2) years. There shall be no limit to the number of consecutive terms a vendor may serve.
- 212.7 A vacancy occurring on the Committee shall be filled from among eligible vendors by a majority vote of the Committee. A member elected to fill a vacancy shall serve until the next election.

**213 BLIND VENDORS COMMITTEE: ORGANIZATION AND FUNCTIONS**

- 213.1 The Blind Vendors Committee shall be organized to include a coordinator, a vice-coordinator, and a secretary.
- 213.2 The Committee shall operate by meeting regularly with representatives of the Department, and shall operate as a whole and through subcommittees.
- 213.3 The Committee may decide, from time to time, to hold meetings of its own members only.
- 213.4 Between regular meetings, the Committee shall carry out functions through subcommittees, or individual members which the Committee designates for that purpose.
- 213.5 The Committee and the Department shall meet at least once a month.

**214 BLIND VENDORS COMMITTEE: MEETINGS**

- 214.1 The Department shall provide written notices to all committee members at least one (1) week prior to each regular meeting.
- 214.2 The notice shall contain the time and place of the meeting and a list of topics planned by the Department for discussion.
- 214.3 Between regular meetings, written notice shall be given to subcommittee members, or other individuals, of important discussions and decisions making meetings in areas of the subcommittees interest.
- 214.4 The Committee shall have the opportunity to initiate matters for consideration by them and the Department in order to make meaningful contributions to the Program, with the Committee's views and positions taken into careful and serious account by the Department.
- 214.5 The Department shall have the ultimate responsibility for the administration of the Program. If the Department does not adopt the views and positions of the Committee, the Department shall notify the Committee, in writing, of the decision reached or the action taken and the reasons for the decision or action.

**215 HEARINGS**

- 215.1 Written and oral information regarding the right to file a complaint, how to request a hearing, and the method of filing a complaint shall be furnished by the Department to each applicant or recipient of any assistance, service, or license at the time of application.
- 215.2 Information on the right to file a complaint as described in §215.1 shall also be sent whenever the Department notifies the applicant or recipient in writing that the Department intends to take any action that may or will adversely affect the individual or the individual's benefits, including changes in or termination of those benefits.
- 215.3 Written notice shall include notice of the following:
  - (a) That the applicant or recipient has the right to be represented by legal counsel or by any person who is not an employee of the District government;
  - (b) That the individual may bring witnesses and present evidence in the individual's behalf; and
  - (c) That the individual has the right to submit rebuttal evidence and to conduct cross-examination that may be required for a full and true disclosure of the facts.



**215 NOTICE AND HEARINGS (Continued)**

- 215.4 Hearing procedures, entitled "Administrative Review and Full Evidentiary Hearing Procedures for the Department of Human Services, Commission of Social Services, Vocational Rehabilitation Services Administration, Randolph-Sheppard Act, as amended by P.L. 93-516," shall be published separately by the Department.

**216 ACCESS TO PROGRAM AND FINANCIAL INFORMATION**

- 216.1 Each vendor shall be provided access to all program and financial data of the Department relevant to the operation of the Program, including quarterly and annual financial reports, if that disclosure does not violate applicable federal or District laws pertaining to the disclosure of confidential information.
- 216.2 Insofar as practicable, data shall be made available in braille or recorded tape and, at the request of the vendor, the Department shall arrange a convenient time to assist in the interpretation of data.

**217 EXPLANATION TO VENDOR OF RIGHTS AND RESPONSIBILITIES**

- 217.1 The Department shall furnish to each vendor copies of documents relating to the operation of the Program, including the rules and regulations which contain written descriptions of the arrangements for providing services, the vendors' agreement, and the permit covering the operation of any facility to which the vendor shall be assigned.
- 217.2 The content of the documents listed in §217.1 shall be explained to each prospective licensee during training. At the time of licensing, a thorough review shall be conducted with each vendor.

**299 DEFINITIONS**

- 299.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

**Blind licensee** - a blind person licensed by the Department to operate a vending facility on federal or other property.



**299      DEFINITIONS      (Continued)**

**Blind person** - a person who after examination by a physician skilled in diseases of the eye or by an optometrist, whichever that person selects, has been determined to have either of the following conditions:

- (a) Not more than 20/200 central visual acuity in the better eye with correcting lenses; or
- (b) An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees (20°).

**License** - a written instruction issued by the Department to a blind person, authorizing that person to operate a vending facility on federal or other property.

**Licensing Agency** - the agency designated by the Mayor under this part to issue licenses to blind persons for the operation of vending facilities on federal and other property.

**Management services** - supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. It does not include those services or costs which pertain to the on-going operation of an individual facility after the initial establishment period.

**Net proceeds** - the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of the sale and other expenses (excluding set-aside charges required to be paid by blind vendors).

**Nominee** - a nonprofit agency or organization designated by the Department through a written agreement to act as its agent in the provision of services to blind licensees under the vending facility program.

**Nominee agreement or servicing agreement** - a written agreement that the Department may enter into by which another agency or organization undertakes to furnish services to blind vendors, containing provisions that:

- (a) Clearly ensure the retention by the Department of full responsibility for the administration and operation of all phases of the Program;
- (b) Provide that no set-aside charges will be collected from blind vendors except as specified in the agreement;
- (c) Specify that no nominee will be allowed to exercise any function with respect to funds for the purchase of new equipment or for ensuring a fair minimum of return to vendors, except to collect and hold solely for disposition in accordance with the order of the Department any charges authorized for those purposes by the Department;

**Nominee agreement or servicing agreement - (Continued)**

- (d) Specify that only the Department shall have control with respect to the selection, placement, transfer, financial participation and termination of the vendors, and the preservation, utilization, and disposition of program assets; and
- (e) Specify the type and extent of the services to be provided under the agreement.

**Set-aside funds** - funds which accrue to the Department from an assessment against the net proceeds of each vending facility in the District's vending facility program and any income from vending machines on federal property which accrues to the Department.

**Vending facility** - automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and other appropriate auxiliary equipment that may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of changes for any lottery authorized by District law and conducted by the Department within the District.

**Vending machine** - for the purpose of assigning vending machine income under this chapter, a coin or currency operated machine which dispenses articles or services; Provided, that those machines operated by the United States Postal Service for the sale of postage stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

**Vendor** - a blind licensee who is operating a vending facility on federal or other property.

